

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI**

CHERYL RICHARDSON,)	
)	
)	
Plaintiff,)	
)	
vs.)	Case No. _____
)	
TRIUMPH FOODS, LLC,)	
)	
)	
Defendant.)	

DEFENDANT’S NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1331, 1441, and 1446, Defendant Triumph Foods, LLC (“Defendant”) removes to the United States District Court for the Western District of Missouri the action captioned *Cheryl Richardson v. Triumph Foods, LLC*, Case No. 18BU-CV04334, currently pending in the Circuit Court of Buchanan County, Missouri. Defendant removes this case on grounds of federal question jurisdiction under 28 U.S.C. § 1331. In support of its Notice of Removal, Defendant states as follows:

1. On October 15, 2018, Plaintiff Cheryl Richardson (“Plaintiff”) commenced an action in the Circuit Court of Buchanan County, Missouri by filing her Petition in *Cheryl Richardson v. Triumph Foods, LLC*, Case No. 18BU-CV04334 (the “State Court Action”).

2. In the State Court Action, Plaintiff’s Petition purports to assert claims for (a) violation of Title VII of the Civil Rights Act of 1964 (“Title VII”) and (b) Age Discrimination in Employment Act (“ADEA”).

3. On October 18, 2018, Defendant was served with the Summons and a copy of the Petition in the State Court Action, which are attached as **Exhibit A**.

4. The Circuit Court of Buchanan County, Missouri is located within the United States District Court for the Western District of Missouri. Thus, venue is proper in this Court because it is the “district and division embracing the place where such [state court] action is pending.” 28 U.S.C. § 1441(a).

5. Defendant files this *Notice of Removal* within thirty (30) days after service of the Summons and Petition upon it. Thus, under 28 U.S.C. § 1446(b), Defendant’s time to remove and to answer has not yet expired.

6. In accordance with 28 U.S.C. §1446(a) a copy of the entire file in the State Court Action, including all pleadings and papers that have been filed and served on Defendant in the State Court action are attached to this Notice as **Exhibit A**. Plaintiff has not served upon Defendant any other process, pleadings or orders.

7. Exhibit A attached hereto constitutes all records and proceedings had in the State Court Action.

THIS COURT HAS ORIGINAL FEDERAL JURISDICTION OVER PLAINTIFF’S CLAIM

8. The State Court Action may be removed to this Court pursuant to 28 U.S.C. § 1441 because this Court has original federal question jurisdiction under 28 U.S.C. § 1331 based upon federal question.

9. In her Petition, Plaintiff asserts claims under Title VII, 42 U.S.C. § 2000e, *et seq.*, and the ADEA, 29 U.S.C. § 621, *et seq.* (See Plaintiff’s Petition.)

10. Accordingly, this Court has original federal question jurisdiction under 28 U.S.C. § 1331 because the claims contained in Plaintiff’s Petition are based on claims arising under the laws of the United States of America.

11. To the extent that Plaintiff’s Petition asserts claims under State law, those claims are so related to the claims in this action within this Court’s original jurisdiction that they form

part of the same case or controversy under Article III of the Constitution, and this Court, therefore, has supplemental jurisdiction of those claims pursuant to 28 U.S.C. § 1367(a).

12. Based on Plaintiff's Petition, Plaintiff's State Court Action is properly removed to this Court pursuant to 28 U.S.C. §§ 1331, 1441(a), and 1446.

13. Pursuant to 28 U.S.C. § 1446(d), a copy of this *Notice of Removal* is being served upon counsel for Plaintiff, and Defendant will file in the Circuit Court of Buchanan County, Missouri *Defendant's Notice of Removal to Federal Court*, attached to will be a copy of this notice.

For the above and foregoing reasons, Defendant Triumph Foods, LLC, respectfully gives notice that the action now pending in the Circuit Court of Buchanan County, Missouri Case No. 18BU-CV04334, is removed from that Court to the United States District Court for the Western District of Missouri, pursuant to 28 U.S.C. §1441.

Respectfully submitted,

/s/ Gregory D. Ballew

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ATTORNEYS FOR DEFENDANT
TRIUMPH FOODS

CERTIFICATE OF SERVICE

I certify on this 15th day of November, 2018 that a true and correct copy of the above and foregoing document was filed using the Court's CM/ECF system which will automatically send electronic notice of filing to the following:

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